



Norman H. Bangerter
Governor

Dee C. Hansen
Executive Director

Dianne R. Nielson, Ph.D.
Division Director

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

March 11, 1991

TO: Board of Oil, Gas and Mining

THRU: Dianne R. Nielson, Director *[Signature]*

THRU: Lowell P. Braxton, Associate Director, Mining *LOB*

FROM: D. Wayne Hedberg, Permit Supervisor *DWH*

RE: Support Documentation, Petition for Board Review of Division Order Regarding Informal Proceedings Denying Permission to Conduct Leak Tests, Docket No. 91-002, Cause No. M/027/007, Jumbo Mining Company, Drum Mine, Millard County, Utah

On January 14, 1991, the Director of the Division of Oil, Gas and Mining issued a Division Order with findings based upon the results of a November 30, 1990 Informal Hearing. Jumbo Mining Company (JMC) requested the Informal Hearing in protest of the Division's October 4, 1990, decision to deny JMC's permit amendment application to conduct leak tests upon Heap Leach Pads #LG 2 & 7.

This memorandum is provided to inform the Board of the regulatory basis for the Division's position/denial of JMC's permit amendment request.

UMC 40-8-4(7). Definitions - Land Affected.

Means the surface and subsurface of an area within the state where mining operations are being or will be conducted, including, but not limited to: (a) on-site private ways, roads, and railroads; (b) land excavations; (c) exploration sites; (d) drill sites or workings; (e) refuse banks or spoil piles; . . . (h) leaching dumps; . . . etc.

UMC 40-8-4(8)(a). Definitions - Mining Operation.

Means those activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit, including, but not limited to, surface mining and the surface effects of underground and in situ mining, on-site transportation, concentrating, milling, evaporation, and other primary processing.

These statutory definitions clearly indicate that heap leaching operations are mining-related activities which must be included and permitted under an approved mining and reclamation plan.

UMC 40-8-19. Transfer of Mining Operation Under Approved Notice of Intention.

Whenever an operator succeeds to the interest of another operator who holds an approved notice of intention or revision covering a mining operation, by sale, assignment, lease, or other means, the division may release the first operator from his responsibilities under his approved notice of intention, including surety, provided the successor assumes all of the duties of the former operator, to the satisfaction of the division, under this approved notice of intention, including its then approved reclamation plan and the posting of surety. Upon the satisfaction assumption of such responsibilities by the successor operator, under conditions approved by the division, the approved notice of intention shall be transferred to the successor operator.

This statutory language provides the basis for the transfer of an approved mining and reclamation plan from one operator to another operator (i.e., permit transfer), under conditions approved by the Division.

Rule R613-004-120. Transfer of Notice of Intention.

If an operator wishes to transfer a mining operation to another party, an application for Transfer of Notice of Intention - Large Mining Operations (FORM MR-TRL), must be completed and filed with the Division. The new mine operator will be required to post a new

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reclamation surety and must assume full responsibility for continued mining operations and reclamation.

The Division's permit transfer form which was used as part of JMC's permit amendment request to add the two (2) existing heap leach pads (#LG 2 & 7), requires notarized signatures of both the transferee and the transferor. The permit transfer cannot be determined complete until both parties sign in agreement to the transfer of the specific properties involved (i.e., leach pads #LG 2 & 7).

Western States Minerals Corporation (the transferor), refused to sign the permit transfer form. Therefore, the Division could not determine the permit transfer document complete. Accordingly, the Division denied JMC's request to amend their approved permit, effectively disapproving their request to commence the liner leak tests.

Copies of the pertinent correspondence and permitting documents are attached for your reference.

jb
Attachments
MN2/10-12



State of Utah

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January 14, 1991

Mr. James R. Haisley, Esq.
Davis, Graham and Stubbs
Suite 1600-87 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111-1006

Dear Mr. Haisley:

Re: Informal Hearing, Jumbo Mining Company, M/027/007, Drum Mine, Millard County, Utah

Enclosed is the Order in the informal hearing regarding the above-referenced Request for Informal Agency Action. As noted in the Order, an appeal of the Division Order is timely if filed by 5:00 p.m. January 24, 1991.

Thank you for your assistance in this matter and for your participation and that of Mr. Westfall in the informal hearing. If you have any questions, please contact me.

Best regards,

Dianne R. Nielson
Director

vb

Enclosure

cc: R. Westfall, Davis, Graham & Stubbs
MI3/40

DOGM
MINERALS PROGRAM
FILE COPY

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Attorneys for Western States
Minerals Corporation

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DIVISION OF
OIL, GAS & MINING

BEFORE THE BOARD OF OIL, GAS AND MINING,
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

IN THE MATTER OF JUMBO MINING)
COMPANY'S PETITION FOR FORMAL)
HEARING)
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EX PARTE MOTION FOR
EXTENSION OF TIME TO FILE
MEMORANDUM OF POINTS AND
AUTHORITIES AND ORDER

Division File No. M/027/007

Respondent, Western States Minerals Corporation
("Western States") respectfully moves the Utah Board of Oil, Gas
and Mining, pursuant to Utah Administrative Code R619-105-200,
for an extension of time within which to file its memorandum of
points and authorities in opposition to Jumbo Mining Company's
Petition in the above-captioned matter.

Western States seeks an extension of time because the attorneys for Western States are presently engaged in responding to Jumbo Mining Company's First Set of Interrogatories and Request for Production of Documents which is due March 11, 1991; and in preparing for a hearing on Jumbo Mining Company's Motion for a Preliminary Injunction scheduled for March 12, 1991. Both of these matters relate to a lawsuit between Western States and Jumbo Mining Company which is now pending in the District Court of Jefferson County, Colorado. Due to the substantial amount of time required to prepare for these matters, Western States will not be able to adequately prepare its memorandum responding to Jumbo Mining Company's Petition before the Board by March 11, 1991.

For the foregoing reasons, Western States respectfully requests that the Board grant Western States an extension of time to file its memorandum of points and authorities until March 15, 1991.

Dated this 8th day of March, 1991.

DAVIS, GRAHAM & STUBBS

By James R. Haisley
James R. Haisley
1600-87 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 328-6000

Attorneys for Respondent

ORDER

For the reasons set forth in Western States Minerals Corporation's Ex Parte Motion For Extension of Time to File Memorandum of Points and Authorities, and for good cause shown, the Utah Board of Oil, Gas and Mining hereby grants Western States an extension of time within which to file its memorandum of points and authorities until March 15, 1991.

Dated this ____ day of March, 1991.

BY THE BOARD:

JAMES W. CARTER, Chairman

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing EX PARTE MOTION FOR EXTENSION OF TIME TO FILE MEMORANDUM OF POINTS AND AUTHORITIES AND ORDER was served by depositing same in the United States mail, first class postage prepaid, on the 8th day of March, 1991, addressed to the following:

Mr. E. B. King
Jumbo Mining Company
6305 Fern Spring Cove
Austin, Texas 78739

Steven E. Clyde, Esq.
Attorney for Jumbo Mining Company
CLYDE, PRATT and SNOW
200 American Savings Plaza
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Associate Director, Mining
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